IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1552 OF 2007

1.Manohar Pandurang Gavand, &
2.Vinod Gopal Patil. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

....

Mr.C.R.Sonawane, Adv. for the Applicant.
Mr.Rajesh More, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 21st June, 2007.

P.C.:

1. Heard the learned Advocate for the Applicants and the learned APP for the State.

2. The applicants are seeking anticipatory bail in C.R.No.55 of 2007 of Uran Police Station. The said case is mainly under Section 307 of IPC.

3. It is the prosecution case that there was political rivalry between the complainant in the present case and the applicants. It is the case of the complainant that on 8.4.2007 at about 8:45 p.m., the present applicants along with others came to his house and they assaulted his brother Hiraman Patil and one Kailash Patil. Hiraman Patil sustained five injuries i.e. (1) CLW Rt.

Temproparietal area 6 cm X1cm bonedeep, (2) abrasion Rt. maxillary area 4 cm X 4 cm, (3) fracture (undisplaced) Rt. temporal bone, (4) Rt. franto temproparietal extra axial (subdural) haemafoma c- midline shift to Lt. and minimal subarchnoid extension, and (5) diffuse cerebral oedema c- diffuse axonal injury. Kailash Patil sustained four injuries i.e. (1) fracture distal phalynx Lt. thumb, (2) CLW Lt. parieto occipital giranctin 4 cm X 1 cm X bone deep, (3) incised wound Lt. parietal area 3.5. cm. X 1 cm X bone deep, and (4) crush injury Lt. thumb.

4. The eye witness has stated that applicant No.1- Manohar Pandurang Gavand was assaulting with iron bar at the time of the incident and applicant No.2 - Vinod Gopal Patil was assaulting with chopper at the time of the incident. The injury sustained by Kailash Patil shows that the injuries can be caused by an iron bar as well as by chopper. The injuries sustained by Kailash Patil and Hiraman Patil are serious in nature.

5. Mr.Sonawane, the learned Advocate for the applicants submitted that this case has been filed only on account of political rivalry and because Vivek who is the coaccused of the present applicants had lodged FIR against the present

complainant, his brother and other persons. The said complaint is C.R.No.54 of 2007. I have perused the papers relating to that case. The said case is only under Section 326 of IPC. Only one person has received injuries in the said incident i.e. complainant Vivek. The present case is more serious than the cross case. The applicants and coaccused were assaulting with iron bar and other deadly weapons; whereas in the cross-complaint only one Anil Patil is stated to be armed with sword and the other accused were stated to be armed only with sticks. However, Vivek has not sustained any injury which could be said to be attributable to sword. Thus, the cross complaint is not of such a serious nature. Whereas the present case which is under Section 307 of IPC is much more serious in nature.

6. Thus, even though there is a cross-complaint, looking to the role attributed to the applicants and weapons used by them, I do not think that this is a fit case to grant anticipatory bail to the applicants.

7. Application is rejected.

(SMT.V.K.TAHILRAMANI,J.)